

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

In Re:

X

Chapter 7  
CASE #: 1-13-45519-nhl  
Our file #: 309025 (18488)

HERMAN SEGAL

NOTICE OF MOTION

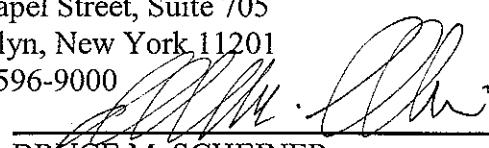
Debtor(s).

X

SIR: MADAM

PLEASE TAKE NOTICE, that upon the annexed Application of the law firm of COHEN HURKIN EHRENFELD POMERANTZ & TENENBAUM, LLP., attorneys for EAGLE PARK HOLDING, LLC, the Creditors, and the affidavit of ELLIOT GALPERN, sworn to on the 19<sup>th</sup> day of September 2014, the undersigned will move this Court, before the Honorable Nancy Hershey Lord, United States Bankruptcy Judge, in the courthouse located at **271 CADMAN PLAZA EAST, BROOKLYN, NEW YORK 11201, ROOM 3577, on the November 20, 2014, at :10:30 A.M.** in the forenoon of that day, or as soon thereafter as counsel can be heard, for an Order vacating the stay under 11 USC 362, for the debtor's bad faith, due to failure to pay post petition rent, permitting the creditor, Eagle Park Holding, LLC, to commence a summary non-payment proceeding in the Civil Court, Kings County, Housing Part, against Debtor Herman Segal for post-petition rent due pursuant to a lease for the premises known as 2179 East 33<sup>rd</sup> Street (Entire House), Brooklyn, New York 11234; awarding attorneys fees and the cost of this motion, and for such other and further relief as this Court may deem just and proper.

Dated: Brooklyn, New York  
*OCTOBER 10 , 2014*

Yours, etc.,  
**COHEN HURKIN EHRENFELD  
POMERANTZ & TENENBAUM, LLP**  
Attorney(s) for Creditor(s)  
EAGLE PARK HOLDING, LLC  
25 Chapel Street, Suite 705  
Brooklyn, New York 11201  
(718) 596-9000  
By:   
**BRUCE M. SCHEINER**

**To:: Maeghan McLoughlin  
Klestadt & Winters LLP  
570 Seventh Avenue  
17<sup>th</sup> Floor  
New York, N.Y. 10018**

**Anna Pia D Nicolas  
Lazare Potter & Giacovas LLP  
875 Third Avenue  
28<sup>th</sup> Floor  
New York, New York 10022**

**Richard E. O'connell  
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**Office of the United States Trustee  
Eastern District of NY (Brooklyn Office)  
U.S. Federal Office Building  
201 Varick Street, Suite 1006  
New York, N.Y. 10014**

**Herman Segal  
4115 Quentin Road  
Brooklyn, N.Y. 11234**

**Maxim Maximov  
Maxim Maximov, LLP  
1701 Avenue P  
Brooklyn, N.Y. 11229**

**Richard Blumenfeld  
Law Office of Rachel S. Blumenfeld  
26 Court Street  
Suite 2220  
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**George Angelich  
Arent Fox LLP  
1675 Broadway  
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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

In Re:

HERMAN SEGAL

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Chapter 7  
CASE #: 1-13-45519-nhl  
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APPLICATION FOR  
AN ORDER

Debtor(s).

-X

TO THE HONORABLE NANCY HERSHEY LORD BANKRUPTCY JUDGE

BRUCE M. SCHEINER, an attorney at law, duly authorized to practice in the United States District Court, Eastern District of New York, and an associate of the firm of COHEN HURKIN EHRENFELD POMERANTZ & TENENBAUM, LLP., attorneys for EAGLE PARK HOLDING LLC, Creditor, applies for an order vacating the stay under 11 USC 362 of the United States Bankruptcy Code, due to debtor's bad faith and to the fact that the Debtor has failed to pay post-petition rent due, permitting movant to commence a non-payment of rent summary proceeding in Civil Court, Housing Part, County of Queens, awarding attorneys fees and the cost of this motion, and for such other and further relief as may be deemed just and proper.

In support thereof, BRUCE M. SCHEINER, represents and alleges as follows:

FIRST: HERMAN SEGAL (referred to hereinafter as "DEBTOR") filed a petition under Chapter 7 of the United States Bankruptcy Code on or about September 10, 2013.

SECOND: The Bankruptcy Court has jurisdiction over this motion, pursuant to 11 USC 362 and Bankruptcy Rule 4001.

THIRD: That at all times mentioned, the named DEBTOR was and still is, a Debtor under Chapter 7 of the Bankruptcy Code, and resides at 2179 EAST 33<sup>RD</sup> STREET (ENTIRE HOUSE), BROOKLYN, NY 11234.

FOURTH: That at all times mentioned, movant, EAGLE PARK HOLDING LLC, (referred to hereinafter as "CREDITOR") was and is doing business in Kings County, and has its business located in New York County, at 139 Fulton Street, Suite 300, New York, N.Y. 10038.

FIFTH: Debtor is a residential tenant at the building owned and managed by the Creditor, and rents the premises 2179 East 33<sup>rd</sup> (Entire House), Brooklyn, N.Y. 11234.

SIXTH: Annexed hereto is an Affidavit of ELLIOT GALPERN, Creditor's agent, which states that the Debtor has failed to pay rent which has accrued subsequent to the filing of the present petition. The aforesaid affidavit was signed and notarized on September 19, 2014; I have confirmed with Mr. Galpern that no monies have been paid since then.

SEVENTH: As per Mr. Galpern's affidavit, no rents were due to the Creditor that were owed from the time prior to the initiation of this Bankruptcy proceeding; however, Creditor is being severely prejudiced by the fact that not only has post-petition rent not been paid, but also that the stay contained in Section 362 of the Bankruptcy Code is in effect, preventing Creditor from commencing a summary non-payment proceeding and requiring an application to obtain the lifting of said stay.

EIGHTH: That the Debtor has failed to act in good faith, due to the fact that he has failed to pay post petition rent, as stated in Mr. Galpern's affidavit and as demonstrated in Exhibit A, which is an accounting of the rents due since the filing of the present Bankruptcy Petition.

WHEREFORE, it is respectfully requested that the stay, pursuant to 11 USC, Section 362, be vacated, and that the Creditor be permitted to commence a non-payment of rent summary proceeding in Civil Court, Housing Part, Queens County against Debtor, HERMAN SEGAL, for the premises known as 2179 EAST 33<sup>RD</sup> STREET (ENTIRE HOUSE), BROOKLYN, N.Y. 11234, together with such other and further relief as this Court deems just and proper.

Dated: OCTOBER 10, 2014  
Brooklyn, New York



COHEN HURKIN EHRENFELD  
POMERANTZ & TENENBAUM, LLP  
Attorneys for Cerditor, Eagle Park Holding LLC  
BY: BRUCE M. SCHEINER

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

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Chapter 7:  
Case No: 1-13-45519-nhl

HERMAN SEGAL

**AFFIDAVIT IN SUPPORT**

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ELLIOT GALPERN, being duly sworn, deposes and says to be true and correct under the  
penalty of perjury the following:

1. I am the managing owner of EAGLE PARK HOLDING, LLC.
- 2 EAGLE PARK HOLDING, LLC shall hereinafter be referred to as "creditor."
- 3 Herman Segal shall hereinafter be referred to as "debtor."
- 4 Creditor is the owner of 2179 East 33rd Street, Brooklyn, NY 11230.
- 5 Creditor leased said premises to Debtor on July 17<sup>th</sup> 2012.
- 6 This bankruptcy proceeding was initiated in September 2013.
- 7 As of September 2013, debtor was current on the lease.
- 8 The rent was paid for up to and including February 2014.
- 9 All rent due starting March 2014 until today is still outstanding.
- 10 The monthly rent is \$2750.
- 11 The monthly late fee is 4% of \$2750 or \$110.
- 12 The outstanding rent and late fees up to today is \$20,020.00
- 13 There are no debts due to creditor that were owed from the time prior to the initiation of this  
bankruptcy proceeding.
- 14 Attached is the accounting for the rental.

## VERIFICATION

Elliot Galpern, being duly sworn, deposes and says:

I am a managing owner EAGLE PARK HOLDING, LLC. I have written the foregoing and know the contents thereof, and the same is true to my own knowledge except as to those matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true. The grounds of my belief as to all matter not stated upon my own knowledge are information contained in the documents, records and files in my possession.



Elliot Galpern

Sworn to before me this

19<sup>th</sup> day of Sept, 2014.

Fadiros Law  
Notary Public

**VASILIOS KARAGIANIS**  
Notary Public, State of New York  
Qualified In Kings County  
No. 01KA02200724  
My Commission Expires 09/30/2017

**EXHIBIT A**

	Date	beginning balance	Credit	Debit	ending balance
rent	9/1/2013	\$0		-2750	-2750
payment	9/4/2013	-2750	2750		0
check bounced	9/6/2013	0		-2750	-2750
bounced check fee	9/6/2013	-2750		-25	-2775
late fee	9/11/2013	-2775		-137.5	-2912.5
payment	9/16/2013	-2912.5	2750		-162.5
payment	9/17/2013	-162.5	2912.5		2750
rent	10/1/2013	2750		-2750	0
rent	11/1/2013	0		-2750	-2750
late fee	11/10/2013	-2750		-110	-2860
rent	12/1/2013	-2860		-2750	-5610
late fee	12/10/2013	-5610		-110	-5720
wire	12/24/2013	-5720	5720		0
rent	1/1/2014	0		-2750	-2750
wire	1/24/2014	-2750	5500		2750
rent	2/1/2014	2750		-2750	0
rent	3/1/2014	0		-2750	-2750
	3/11/2014	-2750		-110	-2860
rent	4/1/2014	-2860		-2750	-5610
	4/11/2014	-5610		-110	-5720
rent	5/1/2014	-5720		-2750	-8470
	5/11/2014	-8470		-110	-8580
rent	6/1/2014	-8580		-2750	-11330
	6/11/2014	-11330		-110	-11440
rent	7/1/2014	-11440		-2750	-14190
	7/11/2014	-14190		-110	-14300
rent	8/1/2014	-14300		-2750	-17050
	8/11/2014	-17050		-110	-17160
rent	8/1/2014	-17160		-2750	-19910
	8/11/2014	-19910		-110	-20020

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**AFFIDAVIT OF SERVICE**

Debtor(s).

X

STATE OF NEW YORK )  
 )  
COUNTY OF KINGS )  
 )  
).SS.:

I, Nadine Cottrell, being duly sworn, say: I am not a party to the within action, am over 18 years of age and reside in BROOKLYN, NEW YORK, and am employed by COHEN HURKIN EHRENFELD POMERANTZ & TENENBAUM, LLP 25 Chapel Street, Suite 705, Brooklyn, New York.

On October 14, 2014 I served the within **NOTICE OF MOTION, APPLICATION FOR AN ORDER AND SUPPORTING PAPERS** by MAILING a true copy thereof, enclosed in a post-paid wrapper in an official depository under the exclusive care and custody of the U.S. Postal Service within New York City, addressed to each of the following persons at the last known address set forth after each name and known to be a party to the within action:

SEE ATTACHED:

Sworn to before me on the  
15<sup>th</sup> day of Oct, 2014  
  
\_\_\_\_\_  
NOTARY PUBLIC

BRUCE M. SCHEINER  
Notary Public, State of New York  
No. 4844400  
Qualified in Nassau County  
Commission Expires April 30, 2015

**To:: Maeghan McLoughlin  
Klestadt & Winters LLP  
570 Seventh Avenue  
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New York, N.Y. 10018**

**Anna Pia D Nicolas  
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**In Re:**

**HERMAN SEGAL**

**Debtor(s).**

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**NOTICE OF MOTION &**  
**APPLICATION FOR AN**  
**ORDER**

**Signature Rule 130-1.1a**

  
**BRUCE M. SCHEINER**

**COHEN HURKIN EHRENFELD**  
**POMERANTZ & TENENBAUM, LLP**  
**Attorney(s) for Creditor(s)**  
**25 Chapel Street, Suite 705**  
**Brooklyn, New York 11201**  
**(718) 596-9000**